

The University of Chicago

THE AUTONOMY QUESTION IN THE
CANADIAN NORTH-WEST

A PART OF A DISSERTATION SUBMITTED TO
THE FACULTY OF THE DIVISION OF THE
SOCIAL SCIENCES IN CANDIDACY FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF HISTORY

1939

By
CHARLES CÉCIL LINGARD

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CHAPTER XVIII

THE GIST OF THE STORY

The Need for Provincial Autonomy

At the commencement of the present century the North-West Territories of Canada possessed all the machinery and powers of representative and responsible government, apart from certain disabilities arising out of their territorial status. They could not charter railways nor incur debt, and their public domain was administered by the Federal Government, upon which the local Legislature was forced to depend for the greater portion of its revenues. The years 1897 to 1905 witnessed an unprecedented immigration into the Territories, made possible by the energetic free homestead policy of the Federal Department of the Interior, the Canadian Pacific Railway's colonization policy, and the fact that much of the attractive farm land to the south of the international border had already been taken up. The number of homeseekers entering Canadian inland and ocean ports jumped from 21,716 in 1896 to 146,000 in 1905, while the population of the Territories multiplied three times within the four years previous to 1905.

This tremendous inrush of settlers imposed heavy burdens of an economic and financial character upon the Government of the Territories. The new-comers seldom joined settlements already in existence, but rather took up homesteads along projected lines of railway, purchased land where prices had not been enhanced, or located in isolated communities. The increased volume of immigration and the widely scattered settlements necessitated heavy

expenditures for the erection of schools and public works, the construction of roads, bridges, and culverts, and the provision of wells, reservoirs, and ferries. In the pioneer communities there existed no effectual mode of taxation for the purposes of government and local improvement. Consequently, until such time as the Dominion Government was prepared to grant provincial powers to the Territories upon terms that would enable them to assume additional responsibilities and incur liabilities, their Government claimed that it rested with the Federal authorities to furnish the necessary financial aid to carry on the business of government in a manner commensurate with that in the provinces. The successive annual failures of Parliament, between 1896 and 1903, to vote the necessary financial grants brought the Territorial Government face to face with accrued public needs far beyond their means. Out of this constant state of financial embarrassment arose constitutional aspirations.

The need for increased railway facilities was a second important cause of the agitation in the North-West for provincial status. Lacking the power to charter railways or grant them cash or land subsidies, the Territorial Government had no other recourse except to forward resolutions annually to Parliament on behalf of the pioneer communities, twenty, thirty, and even fifty miles from the nearest railway, and on behalf of the older settlements, suffering the hardships of a grain blockade because of inadequate storage and transportation facilities. It argued that, as long as the Dominion Government withheld from the people of the Territories the power to help themselves, it was the imperative duty of that Government to meet their pressing needs in the matter of transportation facilities. "Complete and absolute" provincial autonomy would give the North-West the resources with

which to aid further railway construction.

Finally, at the very root of the autonomy movement was the fact that the natural resources of the Territories were administered by the Federal Government. The four provisional Districts of Assiniboia, Saskatchewan, Alberta, and Athabasca included a vast land area of over 343,000,000 acres, with at least 188,000,000 acres awaiting immediate settlement in the three first mentioned southern Districts. During the 'eighties and 'nineties, the Federal Government, through its Dominion Lands policy of free homestead for the encouragement of settlement and lavish land grants to colonization railroads, gave away millions of acres of the public domain in the Territories. While the railway companies had large tracts of land reserved for them from which to select their grants, they delayed the selection and patenting of the areas "earned" until such times as it was profitable to put them on the market, thereby escaping their fair share of the local taxation, even though the value of their holdings was continually being enhanced through the development of pioneer communities. In addition, the Territories suffered the loss of a fruitful source of local revenue because of the taxation exemption enjoyed by the Canadian Pacific Railway Company under its contract with the Dominion. Not only did this corporation enjoy a taxation exemption on its lands in the Territories for twenty years after the date of the actual issue of letters patent of the grant from the Crown from time to time, after they had been earned, selected, surveyed, and accepted by the Company, but also a perpetual exemption from Dominion, provincial, or municipal taxation, in respect to all its property and capital stock.

With the North-West placed in the position of bearing the double burden of the C. P. R. taxation exemption, of subsidiz-

ing this great national undertaking with millions of acres of Western lands, of seeing the revenue accruing from its public domain going to swell the Federal treasury, and of facing the prospect of ever-increasing immigration with continued inadequate Dominion grants, it was not unnatural that the Territorial Government should launch a campaign, as the new century dawned, on behalf of provincial autonomy and a status in no way inferior to that of other members of the Canadian Confederation.

Repeated Demands for Autonomy and Final Negotiations

Under provincial status the North-West would enjoy the power to amend its constitution, to borrow money for public purposes, to deal with criminal law, to establish charitable institutions, to charter railways, and to administer local affairs in more accord with Western needs and desires. Likewise, it hoped to enjoy beneficiary and administrative rights over the public domain, compensation for lands alienated for the purposes of the Dominion, and the usual provincial subsidy from the Federal treasury.

With a view to obtaining these additional powers and more adequate revenues to meet the public necessities of their rapidly increasing population, the Legislative Assembly of the Territories on May 2, 1900, memorialized the Dominion Government, asking that inquiries be made and accounts be taken with respect to the terms and conditions upon which the North-West might receive provincial status. Following a conference between the Territorial delegates and the Canadian Government during the fall of 1901, the North-West Premier, F. W. G. Haultain, submitted to the Ottawa authorities a lengthy statement of the views of his administration in the form of a draft constitution and extensive memoranda. The refusal of the request for provincial establishment by the

Laurier Government in March, 1902, led to various communications from the Legislative Assembly and Premier of the Territories expressing regret over the delay, and rejecting the reasons submitted by the Federal authorities. The overwhelming support given the Haultain Government in the general elections in May of the same year, when the autonomy question was submitted to the people, indicated that the North-West was united in its desire for an urgent resumption of negotiations looking towards provincial establishment along the lines of the Premier's draft bill.

In April and November, 1903, the Territorial Assembly renewed its prayer of May, 1900, while numerous associations in 1902 and 1903--Grain-Growers, Boards of Trade, Conservative and Liberal party conventions--recorded their approval of the contention that the time had arrived for granting provincial status. While the North-West was forced to mark time constitutionally, it could not, however, do without the transportation facilities, roads, bridges, schools, and other local improvements, which the tremendous increase in population made imperative. Consequently, the Haultain Government, by communication and annual pilgrimages to Ottawa, constantly urged larger subsidies to meet their growing financial necessities. As a result, the financial position of the Territorial Government for 1903 showed a marked improvement over previous years, while its representations for the years 1904 and 1905 brought forth for the first time a liberal response from the Parliament of Canada.

Such was not the case with respect to the demand for provincial autonomy. While R. L. Borden, leader of the Conservative Opposition in the House of Commons, who had toured the West in 1902, was convinced "that the time had even then arrived for granting the virile and enterprising population of the North-West

Territories the same rights of self-government as those enjoyed by the provinces,"¹ the Canadian Prime Minister continued his policy of procrastination with the approval of the four North-West Liberal members of Parliament. The only reason offered for the delay was that the Territories would benefit to the extent of six additional members in the Commons through the Redistribution Bill of 1903, whereas immediate provincial status would restrict them to an additional two, under the application of the British North America Act, 1867.

The Territorial Premier presented the final demand of his Government for provincial autonomy in June, 1904, requesting that negotiations should be resumed at the point reached in December, 1901, and continued until the question was settled. He urged that the Government should, upon the completion of negotiations, introduce legislation containing the following provisions:

1. The organization, on the provincial basis, of that portion of the North-West Territories lying between Manitoba and British Columbia, and extending northward from the international boundary as far into the District of Athabasca as may be decided;
2. The application of the British North America Act as far as possible to the above area;
3. Adequate representation in both Houses of Parliament, bearing in mind the difference in the ratio of increase in the population of the Territories from the older settled portions of the Dominion;
4. Government, legislature, and the administration of justice;
5. The preservation of vested rights;
6. The transfer to the new province of the public domain with all Territorial rights and the beneficial interest therein;
7. A subsidy based as nearly as possible upon those given to the provinces;
8. Compensation for that part of the public domain alienated by the Dominion for purely Federal purposes; and

¹Henry Borden (ed.), Robert Laird Borden: His Memoirs (2 vols.; Toronto, 1938), I, 142.

9. The placing of the burden of the Canadian Pacific taxation exemption upon the Dominion, where it properly belongs.¹

Upon the dissolution of Parliament, Sir Wilfrid Laurier forwarded his reply in September, 1904, stating that should his Government be returned at the general elections, he would resume negotiations with Premier Haultain with a view to the introduction of autonomy legislation during the next session.

Autonomy Acts Run Counter to Haultain's Demands

Following his victory in the general elections of the previous November, Laurier and a committee of his Cabinet held a series of conferences on the autonomy question with Haultain and Bulyea of the Territorial Government and the North-West Liberal members of the Commons and Senate, during January and February, 1905. After concluding the negotiations somewhat hastily, the Canadian Prime Minister introduced the autonomy measures to the Commons on February 21st, containing a number of important clauses at variance with the terms requested by the Territorial Government. At the conclusion of the prolonged session, lasting until July 20th and chiefly notable for the autonomy legislation, with its estimated 2,000,000 words of speech-making, during which outbursts of sectarian passion were engendered throughout the country, compelling a compromise amendment to the school clause, the measures became law. They made provision for the erection of two provinces on September first, the retention of the public lands, mines, minerals, timber, and royalties under Dominion control, the continuance of the Canadian Pacific Railway exemption from taxation, Federal jurisdiction over irrigation, and incomplete provincial control over education.

¹Sessional Papers, Journals of Legislative Assembly of the North-West Territories, 1904 (Regina), pp. 12-14.

Reception of the Terms by the North-West

The moment the autonomy terms became known in the Territories the vocal elements began to divide on Dominion party lines, expressing themselves in varying degrees of satisfaction and hostility, while the great majority of the people appeared indifferent. In view of the fact that the acts differed in a number of important respects from the terms for which the Haultain Government had been contending with the united support--apart from the number of provinces to be created--of the Territorial Assembly, it was, at first glance, surprising that wide-spread dissatisfaction was not immediately in evidence. The truth of the matter, however, was that the pioneer farmers and ranchers were more concerned with "dollar bills" than "Autonomy Bills," with the material interests of the present than the constitutional limitations of the future. In general, they were satisfied with the existing educational system, from which the Haultain Government had removed most of the objectionable features of separate schools, while they saw in the fairly generous Federal subsidy in lieu of the public domain a guarantee to the new provinces of an immediate income increasing with the population--a settlement which persons unaware of the rate of increase in provincial government costs might well accept as satisfactory. Finally, they found in the encouraging crop conditions, the most bountiful harvest in the history of the Territories, and the business activity and buoyant outlook attending the achievement of provincial establishment, little time for reflection and little inclination for any other than a sanguine view of the political future. Nevertheless, there were many people in the North-West who declared their determination to continue the struggle on behalf of full provincial autonomy until Saskatchewan and Alberta received all the rights

and privileges enjoyed by the older members of the Canadian Confederation.

Provincial Rights Invaded

In two important respects the Alberta and Saskatchewan Acts of 1905 denied the new provinces full provincial rights under the Canadian constitution. They perpetuated the privileges existing under the Territorial Ordinance of 1901 with respect to separate schools and denied the people of these provinces the right to adopt an educational system of their own choosing. While the older provinces agreed to enter Confederation with a school system established of their own accord, the North-West suffered constitutional limitations in which they had no voice. In addition, the Acts declared that there should be no discrimination with respect to the educational appropriations of the legislatures as between public and separate schools. It was charged by critics of the Acts that their educational provisions were beyond the power of Parliament, and, furthermore, an "unwarrantable and unconstitutional anticipation of the remedial jurisdiction," conferred on that body by subsection 4 of section 93 of the British North America Act, 1867. The Dominion Government, on the other hand, held that it was constitutionally and morally bound to perpetuate the system of separate schools in the new provinces.

The second notable exception to "complete and absolute" provincial autonomy was the retention of the beneficiary interest in, and the administration of the public domain of the two provinces for the "purposes of the Dominion." While the subsidy in lieu of the lands was in a sense a confirmation of the principle of provincial control over the natural resources, their retention by the Dominion constituted a unique exception--apart from the Manitoba case--to the British colonial practice, which

acknowledged the validity of the dictum "that Colonists of the Anglo-Saxon race look upon the Land Revenue as legitimately belonging to the community."¹ The British North America Act, 1867, and the Australian Commonwealth Act, 1900, recognized provincial control of the Crown lands. Indeed, the older provinces and states of these two confederations administered their lands and enjoyed the beneficiary interest in the same "as the first corollary of responsible government," since the 1840's and 1850's.² Despite the constitutional safeguards in favor of full provincial rights over the land, found in the Act of Canadian Confederation, and the historical precedents in British colonial practice, the Dominion Government thought it advisable, on "the highest grounds of policy"--the Dominion undertaking of the continuance of the free homestead policy as an inducement to immigration--to apply to the two new provinces on the prairies the same "colonial policy" which it had inaugurated thirty-five years previously with respect to the prematurely constituted Province of Manitoba.

An Administrative Unit Halved

Although the North-West Territories had been an administrative unit since 1875, the Autonomy Acts divided the four provisional Districts of Alberta, Assiniboia, Saskatchewan, and Athabasca into two provinces, by a line running north and south along the 110th degree of longitude. The two new prairie provinces of Saskatchewan and Alberta, possessing areas of 251,700

¹Canada Sessional Papers, 1867-1868 (Ottawa), Paper No. 19, p. 12, copy of a Report of a Committee of the Executive Council of Canada, approved, June 22, 1866, and included in a despatch of Governor-General Monck to Mr. Cardwell of the Colonial Office, dated, Ottawa, 23 June, 1866.

²See Chester Martin, "The Colonial Policy of the Dominion," Proceedings and Transactions of The Royal Society of Canada (Ottawa, 1922), Third Series, XVI, sec. II, 45-47.

and 255,285 square miles respectively, comprised the extensive grain-growing and ranching territory lying between Manitoba and British Columbia, and extending from the international boundary to the sixtieth parallel of north latitude. The contention that this region required two sets of expensive provincial institutions can hardly be justified, in view of the 359,279 square miles possessed by the Pacific coast province and the subsequent extensions of Ontario and Quebec to include land and fresh water areas totalling 412,582 and 594,534 square miles respectively.¹ The division was an arbitrary one, as the territory lacked the distinctive physical and economic characteristics which customarily justify diversity of treatment. While there appeared to be some opposition in the Canadian East to the creation of one giant province in the Territories, because of the fear that the exceptionally rapid development in the North-West would soon result in the balance of power in Canadian politics passing to the new communities west of the Great Lakes, and the hope that security might be found in a policy of "divide and rule," yet the Dominion Government, which found it expedient to reject Manitoba's request for an extension of her boundaries northward to Hudson Bay and the sixtieth parallel, could hardly justify the establishment of one vast preponderant province beyond her western frontier. It appeared politically expedient to satisfy personal and local ambitions for capital honors, rather than to create the veritable commonwealth, asked by the Haultain Administration with the approval of the great majority of the Territorial Assembly.

Statesmanship and Expediency

In concluding this study of a very significant period of

¹The Canada Year-Book, 1937, p. 7.

Western Canadian development one cannot but express regret that the Federal Government's policy with respect to the West was somewhat low in the standards of sound statesmanship. Under the pressure of political expediency it delayed grappling with the autonomy question for three years, and then on receiving a new lease of life, following the general elections of November, 1904, it created two inferior provinces in a Confederation that connotes equality. Lack of faith in the people of the North-West to respect the wishes of the Roman Catholic minority, who believed in religious instruction of a denominational character in their schools, led the Prime Minister to adopt a policy which opened old wounds barely healed and renewed a religious controversy that swept the nation. Lack of faith in the legislatures of the prairie provinces to continue the free homestead system, which had made a veritable wonderland of prosperity in the West and was reacting with similar effect upon the whole Dominion, resulted in the continued administration of their public domain by a body not contemplated in the constitution and, by the very nature of things, ill-fitted for the task. Consequently, settlement advanced into the ranching zones without restriction, and vast grazing areas went under the plough. Scenes of desolation during the drought years of the 1930's, in the dried-out areas of southern Alberta and Saskatchewan, remain to tell the story.

It was likewise regrettable that the achievement of provincial institutions resulted in the retirement of F. W. G. Haultain from office. Throughout his eighteen years of public service, as member of the old North-West Council, as chairman of the advisory council and the executive committee, and finally, as Premier of the Territories from 1897 to 1905, he had led in the struggle for responsible government and provincial autonomy. He

had contributed more than any other person to the government of the North-West and had won national fame by sheer merit and statesmanlike and shrewd administration.

Although Mr. Haultain did not become Saskatchewan's first Premier, he continued in public life as leader of the Provincial Rights party--the official Opposition in the local legislature for seven years. He became Chief Justice of Saskatchewan in 1912, and served in that capacity until his retirement in 1937, after fifty years of public life in the West. He was honored with a knighthood in 1916, and with the post of Chancellor of the University of Saskatchewan the following year, in recognition of his services to the Canadian North-West.

